रजिस्ट्री सं० डी० एल०-33004/95 REGISTERED No. DL-33004/95

भारत का राजपत्र
The Gazette Of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 43] नई दिल्ली, सोमवार, अगस्त 21, 1995/श्रावण 30, 1917
No. 43] NEW DELHI, MONDAY , AUGUST 21, 1995/SRAVANA 30, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given **to** this **Part** in order **that it** may be filed as **a** separate **compilation.**

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 21st *August, 1995/Sravana* 30, 1917*(Saka)*

The following Act of Parliament received the assent of the President on the 19th August, *1995,* and' is hereby published for general information: —

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT 1995

No. 30 OF 1995

[19 th *August,* 1995.]

An Act further to amend the Workmen's Compensation Act, 1923.

BE IT enacted by Parliament in the Forty-sixth Year of the Republic of India, as follows: —

Short title and com mence.

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 1995.

(2) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

Amend - ment of section 2.

8 of 1924

2. In section 2 of the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act),—

(a) in sub-section *(1),*—

(i) in clause *(d),*—

(I) in sub-clause (i), for the word "legitimate" occurring at both the places, the words "legitimate or adopted" shall be substituted;

(II) in sub-clause (iii*),* in item (c). for the words "legitimate or illegitimate", the words "legitimate or illegitimate or adopted" shall be substituted;

(///) the following *Explanation* shall be inserted at the end, namely:—

"Explanation.—For the purposes of sub-clause *(ii)* and items (/) and *(g)* of sub-clause (/«), references to a son, daughter or child include an adopted son, daughter or child respectively.";

(ii) in clause (n),—

(I) in sub-clause (0, for the words and figures "section 3 of the Indian Railways Act, 1890", the words, brackets and figures "clause (34) of section 2 of the Railways Act, 1989" shall be substituted; 9 of 1890. 24 of 1989.

(//) after sub-clause (i), the following sub-clause shall be inserted, namely:—

"*(ia) (a)* a master, seaman or other member of the crew of a ship,

(b) a captain or other member of the crew of an aircraft,

(c) a person recruited*as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,

(d) a person recruited for work abroad by a company,

and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India, or";

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

"(3) The Central Government or the State Government, by notification in the Official Gazette, after giving not less than three months' notice of its intention so to do, may, by a like notification, add to Schedule II any class of persons employed in any occupation which it is satisfied is a hazardous occupation, and the provisions of this Act shall thereupon apply, in, case of a notification by the Central Government, within the territories to which the Act extends, or, in the case of a notification by the State Government, within the State, to such classes of persons:

Provided that in making addition, the Central Government or the State Government, as the case may be, may direct that the provisions of this Act shall apply to such classes of persons in respect of specified injuries only.".

Amendment of section 3.

3. In section 3 of the principal Act,—

(a) in sub-section (I), in the proviso, in clause (ft), after the word "death", the words "or permanent total disablement" shall be inserted;

(6) in sub-section (3),—

(i) for the opening portion beginning with tfie words, "The State Government" and ending with the words and letter "Part C of

that Schedule", the words "The Central Government or **the State** Government" shall be substituted;

(ii) after the words "shall apply", the words, ", in the case of a notiSctlon by ilie Central Government, within the territories to which this Act extends or, in case of a notification by the State Government, within the State" shall be inserted.

Amendment **of** section **4.**

4. In section 4 of the principal Act,—

(a) in sub-section (I),—

(i) in clause (a), for the words "forty per cent." and "twenty thousand rupees", the words "fifty per cent." and "fifty thousand rupees" shall respectively be stitostituted;

(ii) in clause (b), the words "fifty per cent." and "twenty-four thousand rupees", the words "sixty per cent." and "sixty thousand rupees" shall respectively be substituted;

(iii) in Explanation II, for the words "one thousand rupees", at both the places wheer they occur, the words "two thousand rupees" shall be substituted;

(b) after sub-section CO, the following sub-section shall be inserted, namely:—

"(1/4) Notwithstanding anything contained in sub-section (2), while fixing the amount of compensation payable to a workman in respect of an accident occurred outside India, the Commissioner shall take into account the amount of compensation, if any, awaided to such workman in accordance with the law of the country in which the accident occurred and **shall** reduce the amount fixed by him by the amount of compensation awarded to the workman in accordance with the law of that country.";

(c) after subjection (3), the following sub-section shall be inserted, namely:—

"(4) If the injury of the workman results in his death, the employer shall, in addition to the compensation under sub-section (1), deposit with the Commissioner a sum of one thousand rupees for payment of the same to the eldest surviving dependant of **the** workman towards the expenditure of the funeral of such workman or where the workman did not have a dependant or was not living with his dependant at the time of his death to the person who actually incurred such expenditure.".

Amendment of section 4A.

5. In section 4A of the principal Act, for sub-section (5), the following sub-sections shall be substituted, namely:—

"(5) Where any employer is in default in paying the compensation due under this Act within one month from the date it fell due, the **Commissioner shall—**

(a) direct that the employer shall, in addition to the amount of the arrears, pay simple interest thereon at the rate of twelve per cent, per annum or at such higher rate not exceeding the maximum of the lending rates **of any** scheduled bank as may be

specified by the Central Government, by notification in the Official Gazette, on the amount due; and

(b) if, m his opinion, there is no justification for the delay, direct that the employer shall, in addition to the amount of itie arrears and inleiesc thereon, pay a further sum not exceeding fifty per cent, of such amount by way of penalty:

Provided that an order for the payment of penalty shall not be passed under clause (b) without giving a reasonable opportunity to the employer to show cause why it should not be passed.

Explanation.—For the purposes of this sub-section, "scheduled bank" meand a bank for the time being included in the Second Schedule lo the Eeserve Bank of India Act, 1934. 2 of 1934.

(3 A) The interest payable under sub-section (3) shall be paid io the workman or his dependant, as the case may be, and ihe penalty shall be credited to the State Government/'.

Amendment of section 8.

6. In section 8 of the principal Act,—

(a) in sub-section (1), in the proviso, for the words "not exceeding an aggregate of one hundred rupees, and so much of such aggregate", the words "of an amount equal to three months-' wages of such workman and yo much of such amount" shall be substituted;

(b) in sub-section (4), the words "shall deduct therefrom the actual cost of the workman's funeral expenses, to an amount not exceeding fifty rupees and pay the same to the person by whom such expenses were incurred, and" shall be omitted.

Amendment of flection 14.

7. ki section 14 of the principal Act, hi sub-section *(4)*, for the words and figures "section 230 of the Indian Companies Act, 1913", the words and figures "section 530 of the Companies Act, 1956" ihall be subsiifufed. 7 of 1913. 1 of 1956.

Insertion of new section B ISA and 15B.

8. After section 15 of the principal Act, the following sections shall be Inserted, namely: —

Special provisions relating to captains and other members of crew of nircraffs,

"15A. This Act shall apply in the case of workmen who are captains or other members of the crew of aircrafts aubiect to ihe ioJ]ow-Ing modifications, namely: —

(1) The notice of the accident rnd ihe c'nim ior compensation may, except where the person injured is the captain of ihe aircraft, be served on the captain of the aircraft as if he were the employer, but where the accident happened and the disablement commenced on board the aircraft it shall not be necessary for any member of the crew to give notice of ih° nccirleni.

(2) In the case of the death of the captain or other member of the crew, the claim for compensation shall be made within one year after the news of the death has been received by the claimant or, where the aircraft has been or is deemed to havo been lost with all hands, within eighteen months of the date on which the aircraft was, or Is deemed to have been, so lo^t:

Provided that the Commissioner may entertain any wiaini lor compensation in any case notwithstanding that the claim uas not been piefened in due time aa provided m this sub-becuuii, it *he* is satisried that the failure so to prefer the claim was due to Bufflcient cause.

(3) Where an injured captain or other member of the crew of the aircraft ia discharged or left behind in any part of India or in any other country, any depositions taken by tny Judge or Magistrate in that part or by any Consular Officer in the foieign country and transmitted by the person by whom tney are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claims, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer be tore whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness;

(c) if the deposition *wbs* mudc in f^e course ^f a criminal proceeding, on proof thai the deposition was made in the presence of the person accused,

and it anal] not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that ihe defendant or the person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of ihe person accused shall, onless the contrary is proved, be sufficient evidence rhat h^ had that opportunity and that it wa^ so *made*

15F This Act shall apply— Special provisions, relating to workmen abroad of companies Jrtd motor vehicles.

(i) Iri the case of workmen who are persons recruited bv companies registered in India ;ind working ns such abroad, unci

(h) person? sent for work abroad along with motor[1] vehicles registered under the Motor Vehicles Act, 1988 as drivers, helpers, mctfiimirs, rleaners or o'ri2r workmen, subject to the following modifications, namely:—

*9 of I<JHK

(1) The notice of the accident and the claim for compensation may be served on the local agent of the company, or the local agent of the owner of the motor vehicle, in the country of accident, ns the case may be.

(2) In the case of death of the workman in respect of whom the provisions of this section shall apply, (he claim for compensation shall be made within one year after the news of the death has been received by DIP claimant-

Provided that the Commissioner may entertain any claim for compensation in any case notwithstanding that the claim

has not been preferred *in* due time as provided in this sub-section, if he is satisfied that the failure so to prefer the claim was due to sufficient! cause.•

(5) Where an injured workman is discharged or left behind in any part of India or in any other country any depositions taken by any Judge or Magistrate in that part or by any Consular Officer in the foreign country and transmitted by the person by whom they are taken to the Central Government or any State Government shall, in any proceedings for enforcing the claims, be admissible in evidence—

(a) if the deposition is authenticated by the signature of the Judge, Magistrate or Consular Officer before whom it is made;

(b) if the defendant or the person accused, as the case may be, had an opportunity by himself or his agent to cross-examine the witness;

(c) if the deposition was made in the course of a criminal proceeding, on proof that the deposition was made in the presence of the person accused,

and it shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition and a certificate by such person that the defendant or the© person accused had an opportunity of cross-examining the witness and that the deposition if made in a criminal proceeding was made in the presence of the person accused shall, unless the contrary is proved, be sufficient evidence that he had that opportunity and that it was so made.".

Amendment of section 18A.

9. In setcion 18A of the principal Act, for the words "five hundred", the words "five thousand" shall be substituted.

Amendment of section 21.

10. In section 21 of the principal Act,—

(0 for sub-section *(1),* the following sub-sections shall be substituted, namely:—

"(2) Where any matter under this Act is to be done by or before a Commissioner, the same shall, subject to the provisions of this Act and to any rules made hereunder, be done by or before the Commissioner for the area in which—

(a) the accident took place which resulted in the injury; or

(b) the workman or in case of his death, the dependant claiming the compensation ordinarily resides; or

(c) the employer has his registered office:

Provided that no matter shall be processed before or by a Commissioner, other than the Commissioner having jurisdic-

tion over the area in which the accident took place, without his giving notice in the manner prescribed by the Central Government to the Commissioner having jurisdiction over the area and the State Government concerned:

Provided further that, where the workman, being the master of a ship or a seaman or the captain or a member of the crew of an aircraft or a workman in a motor vehicle or a company, meets with the accident outside India any such matter may be done by or before a Commissioner for the area in which the owner or agent of the ship, aircraft or motor vehicle resides or carries on business or the registered office of the company is situate, as the case may be.

(1A) If a Commissioner, other than the Commissioner with whom any money has been deposited under section 8, proceeds with a matter under this Act, the former may for the proper disposal of the matter call for transfer of any records or money remaining with the latter and on receipt of such a request, he shall comply with the same.";

(ii) second proviso to sub-section (2) shall be omitted.,

Amendment of section 22.

11. In section 22 of the principal Act, for the brackets, figure and words *"(1)* No application for the settlement", the following shall be substituted, namely:—

"(2) Where an accident occurs in respect of which liability to pay compensation under this Act arises, a claim for such compensation may, subject to the provisions of this Act, be made before the Commissioner,

(1A) Subject to the provisions of sub-section (1), no applieation for the settlement".

Amendment of section 23.

5 of 1898.

2 of 1974

12. In section 23 of the principal Act, for the words and figures "section 195 and of Chapter XXXV of the Code of Criminal Procedure, 1898", the words and figures "section 195 and of Chapter XXVI of the Code of Criminal Procedure, 1973" shall be substituted.

Amendment of section 30.

» of 1908.
36 of 1963.

13. In section 30 of the principal Act, in sub-section (5). for the words and figures "the Indian Limitation Act, 1908", the words and figures "the Limitation Act, 1963" shall be substituted.

Amendment of Schedule I.

14. In Schedule I of the principal Act, in Part II,—

(i) in the column relating to description of injury, against serial numbers 2, 3, 4, 17, 18, 19, 20 and 21, for the figures'^'", '4£'", '5'", and '3*'" wherever they occur, the figures and abbreviations "20.32 cms.", "11.43 cms.", "12.70 cms." and "8.89 *cms."* shall respectively be substituted;

(ii) after serial number 10 and the entries relating thereto, the following serial number and entries shall be inserted, namely:—

"10A. Guillotine amputation of tip of thumb without losso fbone. 10";

(Hi) in the column relating to percentage of loss of earning capacity, against serial numbers 21, 22 and 23, for the figures and word

"40", "'30" and ' 3O"7 the figures and word "5(T, ' 30 ' and "'J*J shall res,-pecnvely be substituted;

(iv) alter serial number 26 and the entries relating thereto, fhe following serial number and entries shall be inserted, namely: —

"26A. Loos of partial vision of one eye . . • 10".

Amend-ment «[Schedule Ii.

IS. In Schedule II of the principal Act,—

(i) in item (') , alter the words "railway, in connection with the operation", the word ", repair" shall be inaenwi;

(u) in item *(vn),* for Lhe words and nguies "the Indian Ports Act, 1908", the words and ligures "the Porfe Act,]908 or the Major Port Trusts Act, 1963" shall be substituted; J5 *of* UJI I 38 of 196

(tii) in item *(xu),* for the words, brackets and figures [lt]dause (/) of section 3, and sub-section (i) of section. 140 of the Indian Railways Act, 1890", the words buckets and figures "clause (3/) of -eciion 2 and sub-section (7) of section 197 of the Rrihvio s Act 19'^" shall be substituted; 3 *ot* W HI 24 0) *m,*\ I

(iv) for item *(xix),* the following item shall be substituted, namely: —

u(xix) employed, otherwise lhan in a clerical c^pacn>. in the generating, transforming, transmitting or distribution *c*\ electrical energy or in generation or supply of ga"5; oi";

(v) in item *(xxix),* for the words "employed in faiming", [l•n e words "employed in horticultural operations, forestry, bee-keeping or farming" shall be substituted;

(vi) after item *(xxxii)* and before the *Explanation,* the following items shall be inserted, namely:—

"(jtraiii) employed as watchman in any facton, or usiablish-ment; or

(xxxiv) employed in any ope.Jiion in *ha L*\ea for causing fish; or

(AXXV) employed in any employment which requires handlmg of snakes for the purpose of extraction of venom oi for flie pu>-pose of looking after snakes or handlin , *w*\ ot'v^i- poisonous animal or insect; or

(xxxvf) employed in Inndlino- animals *Vkc* bci s, IMU'OJ arid bulls; or

(xxxvu) employed for the purpose of loading or unloading any mechanically propelled vehicle oi in the handling o>r trans-port of goods which have been loaded in such vehicles; or

(xxxviii) employed in cleaning of sewer linc-j or septic tanks within the limits of a local authority; or

(xxxix) employed on surveys and investigation, exploration or gauge or discharge observation of rivers including drilling Operations, hydrological observations and flood forecasting activi-ties, groundwater surveys and exploration: or

(xl) employed in cleaning of jungles or leclaJiwjig land or ponds m which on any one day of the preceeding twelve months more than rwenty-frve persons have been employed; or

(xli) employed in cultivation of land or rearing and maintenance of live-stock or forest operations or fishùig in which on any one day of <he preceding twelve months mori lhan twenty-five persons have been employed; or

(;>„>() employed in installation, maintenance 01 iepeir of pumping equipment used for lifting of waicr from wells, tube-wells, ponds, lakes, streams and the like; or

(xliii) employed in the construction, biumig oi deepening of an open well or dug well, bore well, bore cum-dujcg well, filter.-point and the like; or

(xliv) employed in spraying and dusting of insecticides of pesticides in agriculiural operations or plantations; or

(xlv) employed in mechanised harvesting and threshing operations; or

(xl«») employed in working or repair or maintenance of bulldozers, tractors, power fillers and the like; or

{xlvU) employed as artist for diawing pictures on advertisement boards at a height of 3.66 metres or more from the ground level; or

{xlvih) employed in any newspaper establishment as de-ñned in the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act,]&55 and engaged *>n outdoor work.".

41 of 1955.

16. In Schedule III oij the principal Act, in Pan B, aftei serial number 24 and the entries relating thereto, 'he following serial numbers and entries shall he inserted, namely: —

Ain«ad-**mtnt** of Schedul* in,

"**25.**	Snow blindness in snow bound areas.	All work involving exposure to the risk concerned'.
26.	Disease due to effect of heat in extreme hot climate.	All work involving exposure to the risk concerned.
27.	Disease due to effect of cold ia extreme cold climate.	All work Involving exposure to rti# risk concerned.".

K. L. M0HANPUR1A,
Secy, to the Covt. of India.

PRINTED BY THE MANAOBR, OOVEKNlvfENT OF INtHA PRESS, MINTO ROAl^ NEW DELHI
AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, <ELHI **19&R**